

BULLETIN

Job qualifications

November 15, 2005

The Report: November / December 2005 vol.26 num.6

by RITU MAHIL



A senior colleague of mine has retired and her job has been posted. I would like to apply but the employer has revised the job description and added all sorts of qualifications that were not required before. Could this possibly be the subject of a grievance?



Yes. Qualifications must have a reasonable relationship to the work to be done; that is, they must actually be required in order to do the work. If the job has not changed and if the newly added qualifications are not required to perform the duties of the job, then the employer may have overstepped its authority to set job qualifications.



Given my personal history with this employer, I actually think that the job description has been revised to prevent me from applying for this job. When can an employee or union grieve the contents of a job description?



It is the employers right to establish the qualifications necessary for any job, but this right is limited. The employer is required to establish qualifications necessary for a job to genuinely do what they purport to do. They may not, in other words, act arbitrarily, unreasonably, or in bad faith, and use "establishing qualifications" as a guise to restrict employee rights under the collective agreement. If new additions to the job description are unrelated to the actual duties of the job, and you have evidence of the employers unreasonable or bad faith conduct, you should speak to your union steward.

✘
What sorts of things would an arbitrator consider when deciding whether the employer acted reasonably or not in setting job qualifications?

✘
The test of reasonableness that arbitrators apply in such situations is whether management has deviated from the path of relevancy: in forming its opinion, did it take into account irrelevant considerations, fail to take into account relevant ones, or consider evidence which is insufficient to support the premises from which the opinion is derived? An arbitrator is entitled to review any and all considerations which management took into account or should have taken into account in making its decision.

✘
I spoke to my supervisor about this new posting and was told that although the employer has hired people in the past without some of the qualifications listed in the job description, they will insist upon all listed qualifications this time. Can they do this?

✘
Yes, but it may be used as evidence of the employer's bad faith in any selection grievance that may arise from this set of facts. Bad faith in the setting of qualifications might be indicated not only by the fact that those requirements were in themselves unreasonable; but also by the fact that they were imposed upon a job which had been performed in the past, to the apparent satisfaction of the employer, by employees lacking those qualifications.
Where there has been a history of waiving a posting requirement, an arbitrator might be entitled to treat sudden insistence upon the prescribed standard as evidence of discrimination against an individual applicant.

✘
My supervisor also told me that in the selection process, they will likely only interview those candidates who have direct experience in that exact position. I know I could carry out the required duties of the job even without this direct experience and wonder if the employer can insist on this.

✘
Minimum qualifications must be reasonable in the sense that they must bear a reasonable relationship to the basic requirements of the particular job. An employer cannot artificially puff up the qualifications ... particularly preferred qualifications ... of the job to the extent that employees who, by any objective standard, have the knowledge, ability and skills to perform the job are either discouraged from applying or, even if they apply, are told they do not meet the qualifications and consequently are -not capable." ✘

Type:

[The Report](#)

- [Print](#)
- [PDF](#)

180 East Columbia
New Westminster, BC V3L 0G7

Website
www.hsabc.org

Telephone 604-517-0994
1-800-663-2017